

Message Text

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC PRIORITY 9138

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 1494

E.O. 11652: GDS

TAGS: ENRG, EC

SUBJECT: MAJORITY OF DEFENDANTS IN ADA CASE CLEARED; LOWER COURT
SENTENCE HOLDS FOR TWO AMERICAN DEFENDANTS

1. THE COURT OF MILITARY JUSTICE CLEARED THE MAJORITY OF THE ADA DEFENDANTS FEBRUARY 20 ON THE BASIS OF LEGAL ERRORS OF THE SPECIAL TRIBUNAL IN APRIL 1973. THE TWO AMERICANS CONVICTED, DR. WILLIAM WALLYS AND JOSEPH SHANNON WOLFE, DID NOT FILE AN APPEAL, SO THE DECISION OF THE LOWER COURT REMAINS IN EFFECT. EX-MINISTER OF NATURAL RESOURCES, GALO PICO MANTILLA, WAS AGAIN FOUND NEGLIGENT IN HIS OFFICIAL DUTIES, BUT THE MILITARY COURT FOUND THAT THE STATUTE OF LIMITATIONS HAD ACTUALLY EXPIRED BY THE TIME THE CASE WAS BROUGHT TO COURT IN 1973. FRANCISCO TORRES VACA, HUGO BURBANO IBUJES AND DR. MANUEL ORELLANA AYORA, MINOR FIGURES IN THE ADA CASE, EITHER DID NOT APPEAL OR WITHDREW THEIR APPEALS, SO THE SENTENCE OF THE LOWER COURT REMAINS IN EFFECT.

2. DR. CARLOS JIMENEZ, THE LOCAL ADA ATTORNEY, TOLD EMBOFF THAT HE IMMEDIATELY NOTIFIED THE HOUSTON ADA OFFICE AND
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RECOMMENDED THAT ADA RENEW ITS EFFORTS TO CLAIM COMPENSATION,

SINCE THE FAVORABLE RESULTS MAY PROVIDE NEW IMPETUS TO ADA'S EFFORTS. JIMENEZ, HOWEVER, POINTED OUT THAT THE FACT THAT THE MAJORITY OF THE ADA DEFENDANTS WERE CLEARED IS IN NO WAY A DE FACTO LEGITIMIZATION OF ADA'S CLAIM FOR COMPENSATION SINCE THE AMERICANS, PICO MANTILLA AND THE THREE OTHER ECUADOREANS WERE NOT CLEARED. DR. JULIO PRADO, MINISTER OF FOREIGN RELATIONS WHEN THE ADA CONCESSION WAS GRANTED, CONFIRMED THAT THE TWO AMERICANS WERE NOT CLEARED BECAUSE THEY FAILED TO FILE APPEALS. PRADO CLAIMED THAT THE AMERICANS RECEIVED BAD LEGAL ADVISE AND COULD HAVE BEEN CLEARED IF THEIR CASE HAD BEEN PROPERLY PRESENTED.

3. THE COURT SENTENCE, HOWEVER, STATES THAT PICO, WHOSE CASE WAS REVIEWED BY THE COURT, WAS GUILTY OF MISUSE OF OFFICE BY GRANTING THE CONCESSION TO ADA PETROLEUM BECAUSE "HE FAVORED THE SHANNON WOLFE GROUP WHICH LACKED ECONOMIC AND TECHNICAL CAPACITY WHICH WOULD OFFER FEWER ADVANTAGES FOR THE COUNTRY THAN THOSE OFFERED BY UNION OIL COMPANY AND PUNA PETROLEUM COMPANY. THE EIGHT COMPANIES THAT LATER FORMED THE ADA CONSORTIUM BY CONTRACTS EFFECTED IN THE UNITED STATES TRANSFERRED THE CONCESSIONS TO COMPANIES THAT HAD NOT EVEN BEEN LEGALLY DOMICILED IN THE COUNTRY."

4. EMBASSY WILL FOLLOW WITH FULL WRAP-UP OF ADA DEVELOPMENTS.

BREWSTER

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